

CHARTER
OF THE
Town of Delmar

WICOMICO COUNTY, MARYLAND

*As found in The Public Local Laws
Of Wicomico County, 1978 Edition
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DELMAR

ARTICLE I Corporate Name and Definitions

Section DC1-1. Corporate name.

This Charter is the Municipal Corporation Charter of the Town of Delmar, Maryland, the corporate name of which is the “Mayor and Commissioners of Delmar.” (Res. No. 4-1982, 6/29/82.)

Section DC1-2. Definitions.

A. The terms “town,” “city,” “municipality” or “municipal corporation” in this Charter shall be construed as synonymous.

B. The terms “Boards of Commissioners,” “Board,” “Commission” and “Mayor and Commissioners” may be used interchangeably in this Charter. (Res. No. 4-1982, 6/29/82.)

ARTICLE II General Corporate Powers

Section DC2-1. General Powers.

The municipal corporation here continued, under its corporate name, Mayor and Commissioners of Delmar, has all the privileges of a body corporate, by that name to sue and be sued, to plead and be impleaded in any court of law or equity, to have and use a common seal and to have perpetual succession, unless the Charter and the corporate existence are legally aborogated [abrogated]. (Res. No. 5-1982, 6/29/82.)

ARTICLE III Corporate Limits

Section DC3-1. Description of corporate boundaries. (See Note 1)

A description of the corporate boundaries of the town at all times shall be on file with the Town Manager and with the Clerk of the court of the county. The corporate boundaries are as follows: Beginning for the same at the Wicomico and Sussex County post on the Delaware and Maryland division line, located just west of the New York, Philadelphia and Norfolk Railroad, thence runnning [running] along said division line in an easterly direction three thousand two hundred sixty-one and six-tenths (3,261.6) feet to a cedar stake; thence along said division line south 79 degrees 30 minutes east seven hundred eighty-six and four-tenths (786.4) feet to an iron driven in the ground at the northeast corner of the land of Willard Oliphant; thence by and

with said Oliphant land south 05 degrees 15 minutes west three hundred ninety-two and four-tenths (392.4) feet to an iron driven in the ground at the southeast corner of the land of said Oliphant; thence north 85 degrees 10 minutes west seven hundred fifty-eight (758) feet to a concrete post; thence north 85 degrees 10 minutes west four hundred ninety-two and five-tenths (492.5) feet to a cedar stake on the east side of Seventh Street; thence south 02 degrees 20 minutes west one hundred forty (140) feet to a cedar stake; thence north 83 degrees 25 minutes west two hundred eighty-eight and three tenths (288.3) feet to a cedar stake; thence south 06 degrees 08 minutes west eight hundred thirty-six (836) feet to a pine post; thence north 83 degrees 40 minutes west seven hundred seventeen and ninety-eight-hundredths (717.98) feet to a stake on the westerly line of the Salisbury-Delmar State Road; thence by and with the westerly line of said State Road south 19 degrees 35 minutes east three hundred eighty-three and nine-tenths (383.9) feet to a stake; thence by and with the center line of a ten-foot alley north 81 degrees 55 minutes west one thousand one hundred twenty-three and nine-tenths (1,123.9) feet to a post; thence south 08 degrees 05 minutes west six hundred eighty-one and one-tenth (681.1) feet to an iron pipe; thence north 81 degrees 55 minutes west one hundred sixty-nine and five-tenths (169.5) feet to a post on the west line of Second Street; thence by and with the center line of a twelve-foot alley north 86 degrees 15 minutes west four hundred forty-three and one-tenth (443.1) feet to a post; thence by and with the center line of said alley north 77 degrees 45 minutes west two hundred eighty-six (286) feet to a post on the easterly line of Railroad Avenue; thence north 81 degrees 55 minutes west seven hundred twelve and two-tenths (712.2) feet to a post; thence north 11 degrees 25 minutes east one thousand thirty-four (1,034) feet to the center of an alley running between West Pine Street and West Walnut Street at its intersection with the center line of the alley running between Park Street and Maryland Avenue; thence running by and with the center line of said alley running between West Pine Street and West Walnut Street north 81 degrees 55 minutes west one hundred seventy-four (174) feet to a stake on the west side of Park Street; thence north 09 degrees 50 minutes east four hundred ninety-six (496) feet along the west side of Park Street to a concrete post at the intersection of the south side of Chestnut Street; thence north 10 degrees 43 minutes east one thousand eighty-two (1,082) feet to a stake on the Delaware and Maryland Division line; thence by and with said division line in an easterly direction seven hundred forty-seven (747) feet to the place of beginning.

All that certain area of land, situated contiguous to and binding upon the southerly and southeasterly corporate limits of the Town of Delmar, in the Delmar Election District, of Wicomico County, State of Maryland, and beginning for the same at a point south 19 degrees 35 minutes east six hundred forty-five and sixty-eight-hundredths (645.68) feet south of the intersection of the southerly corporate limits of the Town of Delmar with the intersection of the easterly line of Alternate U.S. Route 13, same being designated by a cement post in the center of a sixteen-foot road leading to the residence of Russell W. Owens at its intersection with the easterly line of Alternate U.S. Route 13 and designated by the letter "A" on plat hereinafter referred to; thence running by and with the center line of said sixteen-foot road, south 81 degrees 02 minutes east a distance of nine hundred sixty-six and sixty-five-hundredths (966.65) feet to a cement post settled in the center of the aforesaid sixteen-foot road; thence running by and with a ditch commonly known as Wood Creek, north 22 degrees 31 minutes east a distance of one hundred ninety-six and eight-tenths (196.8) feet to the letter "C" on said plat; thence running by and with said ditch commonly known as Wood Creek, north 06 degrees 30 minutes east a

distance of one thousand four hundred twenty-five (1,415 [1,425]) feet, more or less, to the southerly corporate limits of the Town of Delmar, designated by the letter "D" on said plat; thence running by and with the present corporate limits of said Town of Delmar the following five (5) courses and distances: North 85 degrees 10 minutes west a distance of four hundred (400) feet, more or less, to a point designated by the letter "E" on said plat; thence running south 02 degrees 20 minutes west a distance of one hundred forty (140) feet to a point designated by the letter "F" on said plat; thence running north 83 degrees 25 minutes west a distance of two hundred eighty-eight and three tenths (288.3) feet to a point designated by the letter "G" on said plat; thence running south 06 degrees 08 minutes west a distance of eight hundred thirty-six (836) feet to the place designated by the letter "H" on said plat; thence running north 83 degrees 40 minutes west a distance of six hundred forty-five and sixty-eight hundredths (645.68) feet to a point designated by the letter "J" on said plat; thence running by and with the easterly line of Alternate U.S. Route 13, south 19 degrees 35 minutes east a distance of six hundred forty-five and sixty-eight hundredths (645.68) feet to the place of beginning, containing thirty (30) acres of land, more or less, and being all that land as laid down and shown on plat for the Town of Delmar, Maryland, Proposed Annexation No. 2, made by G.F. Schafer, surveyor, in November 1965, generally subject to all provisions of the Charter of the Town of Delmar, Maryland.

All that tract or parcel of land situate, lying and being in the Delmar Election District of Wicomico County, State of Maryland, and contiguous to and binding upon the Easterly corporate limits of the present limits of Delmar, Maryland, and more particularly described as follows: BEGINNING for outlines of the same at a "Hub" settled in the ground at the Southwest corner of the property of Concord Realty Co., also the Southeast corner of the property of Richard V. Powell and Sharon L. Powell, his wife, then running by and with the Southerly line of the property of the Concord Realty Co., South 89 degrees 26 minutes 00 seconds East a distance of 385.80 feet to a concrete monument settled in the center of a ditch on the line of the land now or formerly owned by Iris Webster, thence running by and with the center of said ditch separating this land from the said Webster land South 00 degrees 47 minutes 20 seconds West a distance of 9.18 feet to a concrete monument placed in the center of said ditch; thence running by and with the center of said ditch South 89 degrees 12 minutes 40 seconds East a distance of 18.39 feet to a concrete monument in the center of said ditch; thence running by and with the center line of said ditch which separates the land hereby described from the land of Russell W. Owens and Helen E. Owens, his wife, South 04 degrees 44 minutes 41 seconds West a distance of 749.68 feet to a concrete monument in the center of said ditch; thence continuing by and with the center of said ditch which separates the land herein described from said Owens land North 89 degrees 01 minute 19 seconds West a distance of 489.72 feet to a concrete monument in the center of Wood Creek and Easterly limits of the present corporate limits of the Town of Delmar; thence running by and with the center line of said Wood Creek and the Easterly corporate limits of Delmar North 01 degree 36 minutes 44 seconds East a distance of 753.55 feet to a concrete monument settled in the ground on the South line of South Eighth Street, as shown on plat hereinafter referred to; thence running by and with the Southerly line of said South Eighth Street, the land of the Pilgrim Holiness Church and the land of Richard V. Powell and Sharon L. Powell, his wife, South 89 degrees 26 minutes 00 seconds East a distance of 126.42 feet to the place of beginning, containing 8.8473 acres of land, more or less, and being laid down and shown as Parcel No. 1 and 2 on Plat of Property Survey for Chestnut Manor Associates and Case/Edwards Associates,

made by George L. Ryan, Registered Surveyor, dated March 21, 1980, and to be recorded among the Land Records for Wicomico County, Maryland. (Annexation Res. 5-80, 8/14/80.)

Section DC3-1A. 1982 Annexation.

It is hereby proposed and recommended that the boundaries of the Town of Delmar, Maryland be changed so as to annex to and include with the boundaries of the Town of Delmar, all that certain area of land situated contiguous to and binding upon the southerly corporate limits of the Town of Delmar, in the Delmar election district of Wicomico County, State of Maryland and beginning the same at a concrete monument in the center of a 12 foot alley at the northwest corner of the lot of Benjamin T. Vanderwende and wife, formerly owned by Charles E. Holloway, thence running by and with the westerly line of said Vanderwende lot south $01^{\circ} 07' 53''$ east a distance of 173.61 feet to a concrete monument settled in the ground on the northerly line of the land of Robert P. Binebrink, thence running by and with the same south $89^{\circ} 15' 34''$ west a distance of 31.60 feet to an iron pipe at the northwest corner of said Binebrink's land; thence running by and with the westerly line of said Binebrink's land south $00^{\circ} 31' 30''$ east a distance of 409.96 feet to a concrete monument at the southwest corner of said Binebrink's land; thence running by and with the south line of said Binebrink's land north $89^{\circ} 23' 31''$ east a distance of 297 feet to the west line of Second Street as shown on plat hereinafter referred to; thence running by and with the west line of said Second Street south $00^{\circ} 31' 30''$ east a distance of 381.48 feet to a concrete monument on the north line of Foskey Lane, as shown on said plat; thence running by and with the north line of said Foskey Lane the following four courses and distances: south $85^{\circ} 15' 29''$ west a distance of 430.21 feet, thence running in a westerly direction on a curve with a radius equal to 1,293.63 feet a distance of 208.84 feet to a point; thence running north $85^{\circ} 29' 32''$ west a distance of 352.89 feet to a point; thence running north $84^{\circ} 19' 53''$ west a distance of 338.47 feet to the easterly line of Maryland Avenue, as shown on said plat; thence running by and with the easterly line of said Maryland Avenue north $02^{\circ} 44' 51''$ east a distance of 643.98 feet to the southwest corner of the lot owned by Jerry H. Moore; thence running by and with the southerly line of said Moore lot south $86^{\circ} 18' 09''$ east a distance of 145 feet to the southeast corner of said Moore lot; thence running by and with the east line of said Moore lot north $02^{\circ} 41' 51''$ east a distance of 69.90 feet to the southerly line of the land of Williams Refrigerator Express, Inc.; thence running by and with the southerly line of said Williams Refrigerator Express, Inc. land south $89^{\circ} 54' 18''$ west a distance of 145.10 feet to the easterly line of said Maryland Avenue; thence running by and with the easterly line of said Maryland Avenue north $02^{\circ} 44' 51''$ east a distance of 231.70 feet to the southerly line of the corporate limits of the Town of Delmar; thence running by and with the southerly line of the corporate limits of the Town of Delmar the following three courses and distances: north $89^{\circ} 26' 33''$ east a distance of 543.50 feet to a concrete boulder on the east line of S. Pennsylvania Avenue, thence running by and with the center line of said 12 foot alley south $86^{\circ} 23' 27''$ east a distance of 285.57 feet; thence continuing by and with the center line of said 12 foot alley north $85^{\circ} 05' 46''$ east a distance of 177.20 feet to the place of beginning, containing 25.050 acres of land being laid down and shown on plat entitled "Town of Delmar-Annexation Survey" made by Philip Parker, Registered Surveyor, dated May 11, 1982, generally subject to all provisions of the Charter of Town of Delmar, Maryland. (Res. No. 35-1982, 10-28-82.)

ARTICLE IV

Legislative Powers; Commissioners

Section DC4-1. Mayor and Commissioners; selection; term.

All legislative powers of the town are vested in a Commission consisting of the Mayor and four (4) Commissioners who shall be elected as hereinafter stated. The Mayor shall hold office for a term of two (2) years or until the succeeding Mayor takes office. Commissioners shall hold office for a term of four (4) years or until the succeeding Commissioners take office. The regular terms of the Mayor and Commissioners shall expire on the second Monday following the election of their successors. The Mayor and Commissioners holding office at the time this Charter becomes effective as amended shall continue to hold office for the remainder of the terms for which they were originally elected until the succeeding Commission takes office under the provisions of this Charter as amended. (Res. No. 6-1982, 6/29/82.)

Section DC4-2. Qualifications of Mayor and Commissioners.

The Mayor and Commissioners shall (a) be citizens of the United States, (b) be at least eighteen (18) years of age on the date of the general election, (c) reside in the State of Maryland for at least one (1) year prior to the date of the general election, (d) reside in the corporate limits of the Town of Delmar for six (6) months immediately preceding the date of the general election, and (e) be qualified voters of the Town of Delmar on the date of the general election. (Res. No. 7-1982, 6/29/82.)

Section DC4-3. Salary of Mayor and Commissioners.

Each Commissioner shall receive an annual salary which shall be equal for all Commissioners, and shall be as specified from time to time by an ordinance passed by the Commission in the regular course of its business; and the Mayor shall receive a salary which shall be equal to three hundred dollars (\$300) per annum more than the highest salary paid to any Commissioner; provided however, that the salary specified at the time any Mayor and Commissioner begins his term of office shall not be changed during the remainder of his or her term of office. The ordinance making any change in the salary paid to the Mayor and the several Commissioners, either by way of increase or decrease, shall take effect only after the expiration of the current terms of the Mayor and all Commissioners in office when such ordinance is passed. If any Mayor or Commissioner in office at the time such ordinance is passed vacates his office prior to the expiration of his current term of office, and he does not thereafter fill or succeed to such office prior to the expiration of his original term of office, then, for purposes of this section only, his current term of office shall be deemed to have expired. (Res. No. 8-1982, 6/29/82.)

Section DC4-4. Meetings of Commission.

The newly elected Commission shall meet at 8:00 p.m. on the second Monday following its election for the purpose of organization, after which the Commission shall meet regularly at such times as may be prescribed by its rules but not less frequently than once each month.

Special meetings shall be called by the Town Manager upon the request of the Mayor or a majority of the members of the Commission. All meetings of the Commission shall be open to the public, and the rules of the Commission shall provide that residents of the town shall have a reasonable opportunity to be heard at any meeting in regard to any municipal question. The Commissioners may from time to time hold an executive session from which the public is excluded, but no ordinance, resolution, rule or regulation shall be finally adopted at such an executive session.

Section DC4-5. Commission to be judge of qualifications of its members.

The Commission shall be the judge of the qualifications of its members.

Section DC4-6. Deputy Mayor.

At the first meeting of each newly elected Commission, the Mayor shall appoint a Deputy Mayor from among the Commissioners, without confirmation of the Commissioners. The Deputy Mayor shall act as Mayor during the Mayor's absence or incapacity and shall succeed the Mayor in the event of his permanent incapacity or leaving office. Upon succession of the Deputy Mayor to the office of Mayor, the new Mayor shall choose from the Commissioners a new Deputy Mayor. (Res. No. 9-1982, 6/29/82.)

Section DC4-6A. Duties of Mayor.

The Mayor shall preside over the Commission and may take part in all discussions and vote in all matters and shall enjoy all other rights and privileges of the several Commissioners. The Mayor shall appoint, subject to confirmation by a majority of the Commission, the members of all commissions and boards of the Mayor and Commissioners of Delmar. (Res. No. 10-1982, 6/29/82.)

Section DC4-7. Quorum.

A majority of the members of the Commission shall constitute a quorum for the transaction of business, and a majority vote thereof shall be sufficient to pass any ordinance or any other action without the favorable votes of a majority of the whole number of members elected to the Commission. If a Commissioner abstains for cause shown from voting on any matter, then he shall not be counted for purposes of constituting a quorum for the vote on such matter. (Res. No. 11-1982, 6/29/82.)

Section DC4-8. Rules and order of business; journal.

The Commission shall determine its own rules and order of business. It shall keep a journal of its proceedings and enter therein the yeas and nays upon final action on any question, resolution or ordinance, or at any other time if required by any one (1) member. The journal shall be open to public inspection.

Section DC4-9. Passage of ordinances; publication; date effective.

When any ordinance is introduced for passage by the Commission other than as an emergency ordinance, it shall be read but not passed at the meeting at which it is introduced. As soon thereafter as reasonable convenience allows, a statement of the substance of the ordinance shall be published by posting same at some public place in the Town of Delmar, or by printing same in a newspaper in general circulation in Wicomico County, Maryland. At any regular or special meeting of the Commission held not more than sixty (60) nor less than six (6) days after the meeting at which the proposed ordinance was introduced and first read, the ordinance shall be read for a second time and passed, or amended and passed, or rejected, or its consideration deferred to some specified future date by the Commission; provided that no ordinance shall be passed until it has been published as required herein for at least five (5) days. Every ordinance shall become effective upon passage by the Commission or upon the date specified in the ordinance, if any such date shall be specified. (Res. No. 1-1982, 3/30/82.)

Section DC4-9A. Emergency ordinances.

In cases of emergency, the requirements that an ordinance may not be passed at the meeting at which it is introduced and that it be published as provided in DC4-9 may be suspended by the affirmative votes of four (4) members of the commission. An emergency ordinance shall become effective on the date specified in the ordinance but it shall expire automatically no later than six (6) months after the date on which it was passed. (Res. No. 1-1982, 3/30/82.)

Section DC4-10. Referendum.

The voters of the Town of Delmar shall have the right of referendum on all matters for which State and Federal law require the right of referendum. (Res. No. 2-1982, 3/30/82.)

Section DC4-11. Filing of ordinances and resolutions.

Ordinances and resolutions shall be permanently filed by the Town Manager and shall be kept available for public inspection. (Res. No. 3-1982, 3/30/82.)

Section DC4-12. Powers of Commission enumerated.

A. *General powers.* The Board of Commissioners shall have the power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or this Charter as it may deem necessary for the good government of the town; for the protection and preservation of the town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the residents of and visitors in the town.

B. *Power to enter into agreements with Delmar, Delaware.* The Commission shall have the power to enter into any cooperative agreement with the Town of Delmar, Delaware, for the

common good of the two (2) towns. The Commission may authorize the establishment of various commissions, boards or agencies representing citizens of both towns and having authority to carry out such duties as the Board of Commissioners may prescribe. The Board of Commissioners shall have the power to authorize such boards, commissions or agencies to enforce and carry into effect town ordinances, to grant or refuse permits and to adopt such rules and regulations as may be required to carry out the agencies' responsibilities, according to the standards and guideline set forth by the Commission. The Board of Commissioners may delegate to such boards, commissions or agencies any governmental powers to the full extent permitted by state and federal law.

C. *Specific powers.* The Commission shall have, in addition, the power to pass ordinances not contrary to the laws and Constitution of this state, for the specific purposes provided in the remaining subsections of this section:

(1) *Advertising.* To provide for advertising for the purposes of the town, for printing and publishing statements as to the business of the town.

(2) *Aisles and doors.* To regulate and prevent the obstruction of aisles in public halls, churches and places of amusement and to regulate the construction and operation of the doors and means of egress therefrom.

(3) *Amusements.* To provide, in the interest of the public welfare, for licensing, regulating or restraining theatrical or other public amusements.

(4) *Appropriations.* To appropriate municipal moneys for any purpose within the powers of the Commission.

(5) *Auctioneers.* To regulate the sale of all kinds of property at auction within the town and to license auctioneers.

(6) *Band.* To establish a municipal band, symphony orchestra or other musical organization and to regulate by ordinance the conduct and policies thereof.

(7) *Billboards.* To license, tax and regulate, restrain or prohibit the erection or maintenance of billboards within the city, the placing of signs, bills and posters of every kind and description on any building, fence, post, billboard, pole or other place within the town.

(8) *Bridges.* To erect and maintain bridges.

(9) *Buildings.* To make reasonable regulations in regard to buildings and signs to be erected, constructed or reconstructed in the town and to grant building permits for them; to formulate a building code and a plumbing code and to appoint a Building Inspector and a Plumbing Inspector and to require reasonable charges for permits and inspections; to authorize and require the inspection of all buildings and structures and to authorize the condemnation thereof in whole or in part when dangerous or insecure and to require that such buildings and structures be made safe or be taken down.

(10) *Cemeteries.* To regulate or prohibit the interment of bodies within the municipality and to regulate cemeteries.

(11) *Codification of ordinances.* To provide for the codification of all ordinances.

(12) *Community services.* To provide, maintain and operate community and social services for the preservation and promotion of the health, recreation, welfare and enlightenment of the inhabitants of the town.

(13) *Cooperative activities.* To make agreements with other municipalities, counties, districts, bureaus, commissions and governmental authorities for the joint performance of or for cooperation in the performance of any governmental functions.

(14) *Curfew.* To prohibit the youth of the town from being in the streets, lanes, alleys or public places at unreasonable hours of the night.

(15) *Dangerous improvements.* To compel persons about to undertake dangerous improvements to execute bonds with sufficient sureties conditioned that the owner or contractor will pay all damages resulting from such work which may be sustained by any persons or property.

(16) *Departments.* To create, change and abolish offices, departments or agencies, other than the offices, departments and agencies established by this Charter; to assign additional functions or duties to offices, departments or agencies established by this Charter, but not including the power to discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.

(17) *Dogs.* To regulate the keeping of dogs in the town and to provide, wherever the county does not license or tax dogs, for the licensing and taxing of them; to provide for the disposition of homeless dogs and of dogs on which no license fee or taxes are paid.

(18) *Elevators.* To require the inspection and licensing of elevators and to prohibit their use when unsafe or dangerous or without a license.

(19) *Explosives and combustibles.* To regulate or prevent the storage of gunpower [gunpowder], oil or any other explosive or combustible matter; to regulate or prevent the use of firearms, fireworks, bonfires, explosives or any other similar things which may endanger persons or property.

(20) *Filth.* To compel the occupant or owner of any premises, building or outhouse situated in the town, if it has become filthy or unwholesome, to abate or cleanse the condition; and, after reasonable notice to the owners or occupants, to authorize such work to be done by the proper officers and to assess the expense thereof against the property, making it collectible by taxes or against the occupant or occupants.

(21) *Finances.* To levy, assess and collect ad valorem property taxes; to expend municipal funds for any public purpose; to have general management and control of the finances of the town; to borrow money and issue bonds, notes or other evidence of indebtedness and pay interest on such debts.

(22) *Fire.* To suppress fires and prevent the dangers thereof and to establish and maintain a fire department and furnish any necessary facilities, meeting places, fire halls, etc., as may be necessary; to contribute funds to volunteer fire companies serving the town; to inspect buildings for the purpose of reducing fire hazards, to issue regulations concerning fire hazards and to forbid and prohibit the use of fire-hazardous buildings and structures permanently or until the conditions of town fire hazard regulations are met; to install and maintain fireplugs where and as necessary and to regulate their use; and to take all other measures necessary to control and prevent fires in the town.

(23) *Food.* To inspect and regulate the sale of any food products and to require the condemnation thereof if unwholesome.

(24) *Franchises.* To grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies and any others which may be deemed advantageous and beneficial to the town, subject to the limitations and provisions of Article 23 of the Annotated Code of Maryland. No franchise shall be granted for a longer period than fifty (50) years.

(25) *Garbage.* To prevent the deposit of any unwholesome substance either on private or public property and to compel its removal to designated points; to require slops, garbage, ashes and other waste or other unwholesome materials to be removed to designated points or to require the occupants of the premises to place them conveniently for removal; to provide for the regular collection and removal of garbage and refuse.

(26) *Grants-in-aid.* To accept gifts and grants of federal or of state governments or any agency thereof and to expend the funds for any lawful purpose, agreeably to the conditions under which the gifts or grants were made.

(27) *Hawkers.* To license, tax, regulate, suppress and prohibit hawkers and itinerant dealers, peddlers, pawnbrokers and all other persons selling any articles or soliciting on the streets of the town, and to revoke such licenses for any action or threat of action by such licensee in the course of his occupation which causes or threatens harm or injury to inhabitants of the town or to their welfare or happiness.

(28) *Health.* To protect and preserve the health of the town and its inhabitants; to provide facilities for health care; to appoint a public health officer and to define and regulate his powers and duties; to prevent the introduction of contagious diseases into the town; to establish quarantine regulations and to authorize the removal and confinement of persons having contagious or infectious diseases; to prevent and remove all nuisances; to inspect, regulate and abate any buildings, structures or places which cause or may cause unsanitary conditions or

conditions detrimental to health; but nothing herein shall be construed to affect in any manner any of the powers and duties of the State Board of Health, the County Board of Health or any public general or local law relating to the subject of health.

(29) *House numbers.* To regulate the numbering of houses and lots and to compel owners to renumber them or, in default thereof, to authorize and require the work to be done by the town at the owner's expense, such expense to constitute a lien upon the property, collectible as tax moneys.

(30) *Housing.* To establish a Housing Authority pursuant to Article 44A of the Annotated Code of Maryland (1957 Edition, as amended), to provide safe and sanitary dwelling accommodations.

(31) *Jail.* To establish and regulate a station house or lockup for temporary confinement of violators of the laws and ordinances of the town or to use the county jail for such purpose.

(32) *Licenses.* Subject to any restrictions imposed by the public general laws of the state, to license and regulate all persons beginning or conducting transient or permanent business in the town for the sale of any goods, wares, merchandise or services; to license and regulate any business, occupation, trade, calling or place of amusement or business; to establish and collect fees and charges for all licenses and permits issued under the authority of this Charter.

(33) *Liens.* To provide that any valid charges, taxes or assessments made against any real property within the town shall be liens upon the property, to be collected as municipal taxes are collected.

(34) *Lights.* To provide for the lighting of the town.

(35) *Livestock.* To regulate and prohibit the running at large of cattle, horses, swine, fowl, sheep, goats, dogs or other animals; to authorize the impounding, keeping, sale and redemption of such animals when found in violation of the ordinance in such cases provided.

(36) *Markets.* To obtain by lease or rent, to own, construct, purchase, operate and maintain public markets within the town.

(37) *Minor privileges.* To regulate or prevent the use of public ways, sidewalks and public places for signs, awnings, posts, steps, railings, entrances, racks, posting handbills and advertisements and display of goods, wares and merchandise.

(38) *Noise.* To regulate or prohibit unreasonable noisemaking.

(39) *Nuisances.* To prevent or abate by appropriate ordinance all nuisances in the town which are so defined at common law, by this Charter or by the laws of the State of Maryland, whether they be herein specifically named or not; to regulate, to prohibit, to control

the location of or to require the removal from the town of all trading in, handling of or manufacture of any commodity which is or may become offensive, obnoxious or injurious to the public comfort or health. In this connection, the town may regulate, prohibit, control the location of or require the removal from the town of such things as stockyards, slaughterhouses, cattle or hog pens, tanneries and renderies. The operation of any instrument, device or machine that shall cause electrical interference with radio or television reception within the limits of the town shall be deemed to be a nuisance. This listing is by way of enumeration, not limitation.

(40) *Obstructions.* To remove all nuisances and obstructions from the streets, lanes and alleys and from any lots adjoining thereto, or any other places within the limits of the town.

(41) *Parking facilities.* To license and regulate and to establish, obtain by purchase, by lease or by rent, own, construct, operate and maintain parking lots and other facilities for off-street parking.

(42) *Parking meters.* To install parking meters on the streets and public places of the town in such places as by ordinance they determine and, by ordinance, to prescribe rates and provisions for the use thereof; but the installation of parking meters on any street or road maintained by the State Roads Commission of Maryland must first be approved by that Commission.

(43) *Parks and recreation.* To establish and maintain public parks, gardens, playgrounds and other recreational facilities and programs to promote the health, welfare and enjoyment of the inhabitants of the town.

(44) *Police force.* To establish, operate and maintain a police force; to enter into an agreement with the Town of Delmar, Delaware, providing for the joint operation of one (1) police department to serve the two (2) towns, said agreement to specifically provide that the two (2) towns shall be jointly liable for the costs and expenses thereof. All town policemen within the municipality shall have the powers and authority of constables in this state.

(45) *Police powers.* To prohibit, suppress and punish within the town all vice, gambling and games of chance; prostitution and solicitation therefor and the keeping of bawdy houses and houses of ill fame; all tramps and vagrants; all disorder, disturbances, annoyances, disorderly conduct, obscenity, public profanity and drunkenness.

(46) *Property.* To acquire by conveyance, purchase or gift, real or leasable property for any public purposes; to erect buildings and structures thereon for the benefit of the town and its inhabitants; and to convey any real or leasehold property when no longer needed for the public use, after having given at least twenty (20) days' public notice of the proposed conveyance; to control, protect and maintain public buildings, grounds and property of the town.

(47) *Regulations.* To adopt by ordinance and enforce within the corporate limits police, health, sanitary, fire, building, plumbing, traffic, speed, parking and other similar regulations not in conflict with the laws of the State of Maryland or with this Charter.

(48) *Sidewalks.* To regulate the use of sidewalks and all structures in, under or above them; to require the owner or occupant of premises to keep the sidewalks in front thereof free from snow or other obstruction; to prescribe hours for cleaning sidewalks.

(49) *Sweepings.* To regulate or prevent the throwing or depositing of sweepings, dust, ashes, offal, garbage, paper, handbills, dirty liquids or other unwholesome materials into any public way or on any public or private property in the town.

(50) *Transit system.* To acquire by purchase or lease and operate and maintain motor buses or other vehicles for the purpose of transporting persons, both within the municipality and between the town and points located outside the corporate limits of the town.

(51) *Taxicabs.* To license, tax and regulate public hackmen, taxicabmen, draymen, drivers, cabmen, porters and expressmen and all other persons pursuing like occupations.

(52) *Vehicles.* To regulate and license wagons and other vehicles not subject to the licensing powers of the State of Maryland.

(53) *Voting machines.* To purchase, lease, borrow, install and maintain voting machines for use in town elections.

(54) *Zoning.* To exercise the powers as to planning and zoning, conferred upon municipal corporations generally in Article 66B of the Annotated Code of Maryland, subject to the limitations and provisions of said Article.

D. *Appointments and removal of employees and heads of offices, departments and agencies.* The Board of Commissioners shall appoint the heads of all offices, departments and agencies of the town government as established by this charter or by ordinance. All office, department and agency heads shall serve at the pleasure of the Commission. All subordinate officers and employees of the offices, departments and agencies of the town government shall be appointed and removed by the Commission, in accordance with rules and regulations of any merit system which may be adopted by the Commission. The appointing, hiring and removal of employees may be delegated to the Town Manager, subject to review by Commission, to the extent allowed by law.

E. *Saving clause.* The enumeration of powers in this section is not to be construed as limiting the powers of the town to the several subjects mentioned.

F. *Exercise of powers.* All the powers of the town shall be exercised in the manner prescribed by this Charter, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance.

Section DC4–13. Enforcement of ordinances.

To assure the observance of the ordinances of the town, the Commission has the power to provide that any violation thereof shall be a misdemeanor, which shall be punishable, upon conviction by the District Court of Wicomico County, by a fine not exceeding one hundred dollars (\$100.) or imprisonment for up to thirty (30) days in the county jail, or both, in the discretion of the Court. Any person so convicted shall have the right of appeal within ten (10) days to the Circuit Court of Wicomico County. Where the act or omission is of a continuing nature and is persisted in, a conviction for one (1) offense is not a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

Section DC4–13A. Enforcement of Municipal Infractions.

To assure the observance of ordinances of the town, the Commission has the power to provide that any violation thereof shall be a municipal infraction, in accordance with and subject to the provisions of Article 23A, § 3 of the Annotated Code of Maryland. Municipal infractions shall be punishable by a fine not to exceed one hundred dollars (\$100) for each conviction. The fine shall be payable by the recipient within twenty (20) calendar days of receipt of the citation. Repeat offenders may be assessed a fine not to exceed two hundred dollars (\$200). (Res. No. 12–1982, 6/29/82.)

Section DC4–14. Voter registration, nominations and elections.

Every person who is a citizen of the United States, is at least eighteen (18) years of age, has resided in the State of Maryland for at least thirty (30) days next preceding any town election, has resided within the corporate limits of the town for thirty (30) days next preceding any town election and is registered in accordance with the provisions of this Charter is a qualified voter of the town. Every qualified voter of the town is entitled to vote at all town elections. (Res. No. 1–1983, 8/2/83.)

Section DC4–15. Board of Supervisors of Elections.

There shall be a Board of Supervisors of Elections, consisting of three (3), members who shall be appointed by the Commission on or before the first Monday in March in every second odd-numbered year. The terms of members of the Board of Supervisors of Elections begin on the first Monday in March in the year in which they are appointed and run for four (4) years. Members of the Board of Supervisors of Elections shall be qualified voters of the town and shall not hold or be candidates for any elective office during their term of office. The Board shall appoint one (1) of its members as Chairman. Vacancies on the Board shall be filled by appointment by the Commission; the substitute appointee shall serve for the remainder of the unexpired term. The compensation of the members of the Board shall be determined by the Commission. (Res. No. 13–1982, 6/29/82.)

Section DC4-16. Same: removal of members.

Any member of the Board of Supervisors of Elections may be removed for good cause by the Commission if in the judgment of the Commission the member is not properly performing or will not properly perform the duties of the position. Before removal, the member of the Board of Supervisors of Elections to be removed shall be given a written copy of the charges against him and shall have a public hearing on them before the Commission if he so requests within ten (10) days after receiving the written copy of the charges.

Section DC4-17. Same: duties.

The Board of Supervisors of Elections shall be in charge of the registration of voters, nominations and all town elections. The Board may appoint Election Clerk or other employees to assist it in any of its duties. The Board of Supervisors of Elections shall be the judges of all elections.

Section DC4-18. Notice of registration days and elections.

The Board of Supervisors of Elections shall give at least two (2) weeks' notice of every election by an advertisement published in at least one (1) newspaper of general circulation in the town and by posting a notice thereof in some public place or places in the town.

Section DC4-19. Registration.

Qualified persons who are not registered to vote shall have the opportunity to register on any day the town office is open for regular business. Registration shall be permanent. No person is entitled to vote in town elections unless he is registered. The Board of Supervisors of Elections shall keep the registration lists up-to-date by striking from the lists persons known to have died or to have moved out of the town. The Commission, by ordinance, shall adopt and enforce any provisions necessary to establish and maintain a system of permanent registration and provide for a reregistration when necessary, including central registration utilizing the registration books of other governmental bodies. Registration may be suspended for a period not exceeding five (5) days immediately preceding any election.

Section DC4-20. Appeal from action of Board of Supervisors of Election.

If any person is aggrieved by the action of the Board of Supervisors of Elections in refusing to register or in striking off the name of any person or by any other action, he may appeal to the Commission. Any decision or action of the Commission upon such appeals may be appealed to the Circuit Court for Wicomico County within the time allowed for such appeals.

Section DC4-21. Filing certificate of nomination.

Persons may be nominated for elective office in the town by filing a certificate of nomination at the office of the Board of Supervisors of Elections on or before the second Monday in September next preceding the town election. No person shall file for nomination to

more than one (1) elective town public office or hold more than one (1) elective town public office at any one time. (Res. No. 14-19-82, 6/29/82.)

Section DC4-22. Primary election.

If necessary, a primary election shall be held in the town on the fourth Tuesday in September in every odd-numbered year in order to select candidates for the general election on the third Tuesday in November. If no more than two (2) persons per available position have filed as candidates, no primary election shall be held; in such instances, the persons who have filed for Mayor and Commissioners shall be considered as nominees and their names shall be placed on the ballots or voting machines at the general election. Of the candidates participating in the primary election, a maximum of two (2) candidates per available position shall be chosen as nominees for the general election. This slate of candidates for the general election will consist of those candidates who received the highest number of votes in the primary election. (Res. No. 15-1982, 6/29/82.)

Section DC4-23. Election of Commissioners and Mayor.

A. On the third Tuesday in November in every odd-numbered year, the qualified voters of the town shall vote in a general election. In the first general election and alternating general elections thereafter, the voters shall elect two (2) Commissioners to serve for terms of four (4) years and a Mayor. In the second general election and alternating general elections thereafter, the voters shall elect two (2) Commissioners to serve for terms of four (4) years and a Mayor.

B. Notwithstanding subsection A hereof, Commissioners shall be elected in the years 1983 and 1985 as follows:

1. In 1983, one Commissioner only shall be elected, and he shall serve for a term of four (4) years;

2. In 1985, three Commissioners shall be elected, the two receiving the highest number of votes shall serve for a term of four (4) years and the third Commissioner receiving the third highest number of votes shall serve for a term of two (2) years.

C. From and after 1987, Commissioners shall be elected in accordance with subsection A hereof. (Res. No. 16-1982, 6/29/82.)

Section DC4-24. Conduct of elections generally.

It is the duty of the Board of Supervisors of Elections to provide for each special, primary and general election a suitable place or places for voting and suitable ballot boxes and ballots and/or voting machines. The ballots and/or voting machines shall show the name of each candidate nominated for elective office in accordance with the provisions of this Charter, arranged in alphabetical order, by office, with no party designation of any kind. The Board of

Supervisors of Elections shall keep the polls open from 7:00 a.m. to 7:00 p.m. on election days or for longer hours if the Commission requires it.

Section DC4-25. Absentee Ballot.

Any qualified voter registered to vote in town elections shall have the opportunity [opportunity] to vote by absentee ballot. The Board of Supervisors of Elections shall establish procedures to enable absentee voters to vote.

Section DC4-26. Special elections.

All special town elections shall be conducted by the Board of Supervisors of Elections in the same manner and with the same personnel, as far as practicable, as regular town elections.

Section DC4-27. Vote count.

Within forty-eight (48) hours after the closing of the polls, the Board of Supervisors of Elections shall determine the vote cast for each candidate or question and shall certify the results of the election to the Town Manager who shall record the results in the minutes of the Commission. The candidates for Commissioner with the highest number of votes in the general election shall be declared elected as Commissioners and the candidate for Mayor with the highest number of votes in the general election shall be declared elected as Mayor. (Res. No. 17-1982, 6/29/82.)

Section DC4-28. Preservation of ballots.

All ballots used in any town election shall be preserved for at least six (6) months from the date of the election.

Section DC4-29. Vacancies.

In case of a vacancy in the office of any Commissioner, for any reason, the Commission shall elect some qualified person to fill the vacancy for the unexpired term by the favorable votes of a majority of the remaining members of the Commission. The results of any such vote shall be recorded in the minutes of the Commission. (Res. No. 18-1982, 6/29/82.)

Section DC4-30. Women.

Women and men shall have equal privileges in registering, voting and holding town offices. Whenever the masculine gender has been used as to any registering, voting or holding town office, it may be construed to include the feminine gender.

Section DC4-31. Regulation and control by Commission.

The Commission has the power to provide by ordinance, in every respect not covered by the provisions of this Charter, for the conduct of registration, nomination and town elections and

for the prevention of fraud in connection therewith and for a recount of ballots in case of doubt or fraud.

Section DC4–32. Penalties.

Any person who fails to perform any duty required of him under the provisions of this Article or any ordinances passed thereunder, in any manner willfully or corruptly violates any of the provisions of this Article or any ordinances passed thereunder or willfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination or town election is guilty of a misdemeanor. Any officer or employee of the town government who is convicted of a misdemeanor under the provisions of this section shall immediately upon conviction thereof cease to hold such office or employment.

ARTICLE V

Finance

Section DC5–1. Town Manager.

A. There shall be a Town Manager appointed by the Commission. He shall serve at the pleasure of the Commission for an indefinite term and his compensation shall be determined by the Commission. If not a resident of Delmar, Maryland or Delmar, Delaware at the time of his appointment, he must become a resident of one of such towns within such time as may be specified by the Commission. The Town Manager may serve simultaneously as Town Manager, or in a similar capacity, for the Town of Delmar, Delaware.

B. The Town Manager shall be the chief financial officer of the town and have general managerial and supervisory duties and shall carry out and implement the directions of the Commission. The financial powers of the town shall be exercised by the Town Manager under the direct supervision of the Commission.

C. In the event of the suspension, removal or resignation of the Town Manager, the Commission may appoint an Acting Town Manager who shall exercise all the powers and perform the duties of the Town Manager until such time as the Commission shall appoint a new Town Manager. The Acting Town Manager shall serve at the pleasure of the Commission and may be removed by vote of the Commission. (Res. No. 19–1982, 6/29/82.)

Section DC5–1A. Suspension and removal of Town Manager.

The Commission may suspend or remove the Town Manager from office at pleasure, in accordance with the procedures set forth herein. The Commission shall first adopt a preliminary resolution suspending the Town Manager and stating the reasons for the suspension. A copy of such resolution shall be given to the Town Manager immediately thereafter. Such suspension shall be for a period not exceeding thirty (30) days. If the Town Manager so requests in writing, within five (5) days after receiving a copy of the Commission's preliminary resolution, a public hearing shall be held at a Commission meeting convened or held before the date of any final vote

or removal and at least twenty (20) days after the adoption of the Commission's preliminary resolution. The Commission may at any time revoke or rescind the order of suspension and restore the Town Manager to duty. If the Town Manager fails to make a timely request for a public hearing, the Commission may adopt a final resolution of removal. If the Town Manager makes a timely request for a public hearing, no final resolution of removal may be adopted until after such public hearing has been held. Immediately after the adoption of a final resolution of removal, the Commission shall cause the Town Manager to be paid any unpaid balance of his salary. The action of the Commission in suspending or removing the Town Manager in accordance with the provisions hereof shall not be subject to review by any court or governmental agency. The provisions of this section shall not apply to any acting Town Manager. (Res. No. 20-1982, 6/29/82.)

Section DC5-2. Same: powers and duties.

Under the supervision of the Commission, the Town Manager shall have authority and shall be required to:

- A. Prepare an annual budget to be submitted to the Commission.
- B. Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to assure that budget appropriations are not exceeded.
- C. Maintain a general accounting system for the town in such form as the State Department of Fiscal Services may require, pursuant to Sections 35 through 41 of Article 19 of the Annotated Code of Maryland (1957 Edition, as amended).
- D. Submit at the end of each fiscal year, and at such other times as the Commission may require, a complete financial report to the Commission.
- E. File with the State Division of Fiscal Research, at the end of each fiscal year, a comprehensive statement of the financial condition of the town, as required by Section 61 of Article 40 of the Annotated Code of Maryland (1957 Edition, as amended).
- F. Ascertain that all taxable property within the town is assessed for taxation.
- G. Supervise the collection of all taxes, special assessment, license fees, liens and all other revenues (including utility revenues) of the town and all other revenues for whose collection the town is responsible and receive any funds receivable by the town.
- H. Have custody of all public moneys belonging to or under the control of the town, except as to funds in the control of any set of trustees, and have custody of all bonds and notes of the town.
- I. Do such other things in relation to the fiscal or financial affairs of the town as the Commission may require or as may be required elsewhere in this Charter and perform such other administrative duties as may be required elsewhere in this Charter.

Section DC5-3. Same; bond.

The Town Manager shall provide a bond with such corporate surety and in such amount as the Commission by ordinance may require.

Section DC5-4. Fiscal year.

The town shall operate on an annual budget. The fiscal year of the town shall begin on the first day of July in any year and shall end on the last day of June in the following year. The fiscal year constitutes the tax year, the budget year and the accounting year.

Section DC5-5. Budget.

The Town Manager, on or before May 1 of each year, shall submit a budget to the Commission. The budget shall provide a complete financial plan for the budget year and shall contain estimates of anticipated revenues and proposed expenditures for the coming year. The total of the anticipated revenues shall equal or exceed the total of the proposed expenditures. The budget shall be a public record in the office of the Town Manager, open to public inspection by anyone during normal business hours. (Res. No. 21-1982, 6/29/82.)

Section DC5-6. Same: adoption.

Before adopting the budget, the Commission shall hold a public hearing thereon after two (2) weeks' notice thereof in some newspaper or newspapers having general circulation within the municipality. The Commission may insert new items or may increase or decrease the items of the budget. If the Commission increases the total proposed expenditures, it shall also increase the total anticipated revenues in an amount at least equal to the total proposed expenditures. The budget shall be prepared and adopted in the form of a resolution. A favorable vote of at least a majority of a quorum of the Commission is necessary for adoption. (Res. No. 22-1982, 6/29/82.)

Section DC5-7. Appropriations.

No public money may be expended without having been appropriated by the Commission. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein.

Section DC5-8. Transfer of funds.

Any transfer of funds between major appropriations for different purposes must be approved by the Commission before becoming effective.

Section DC5-9. Overexpenditures forbidden.

No officer or employee during any budget year may expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money for any purpose, in excess of the amount appropriated for or transferred to that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter is null and void. Nothing contained in this section, however, prevents the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which the contract is made, when the contract is permitted by law.

Section DC5-10. Appropriations lapse after one year.

All appropriations lapse at the end of the budget year to the extent that they are not expended or lawfully encumbered. Any unexpended and unencumbered funds shall be considered a surplus at the end of the budget year and shall be included among the anticipated revenues for the next succeeding budget year.

Section DC5-11. Checks.

All checks issued in payment of salaries or other municipal obligations shall be issued and signed by the Town Manager or the acting Town Manager and shall be countersigned by the Mayor or the Deputy Mayor in the event of the Mayor's absence or incapacity or upon his direction. (Res. No. 23-1982, 6/29/82.)

Section DC5-12. Taxable property.

The Commission shall have the power to (a) select as the subjects of taxation such classes of personal property, of land, or improvements on land, assessable under Article 81 of the Annotated Code of Maryland, as it may deem wise, and (b) to levy such special or limited rates of taxation as it may deem wise on any class of property so selected as a subject of taxation for which a fixed or limited rate of taxation is not prescribed by said Article 81. The Commission shall also have the power to grant such exemptions from taxation as shall be permitted by state law. No authority is given by this section to impose taxes on any property which is exempt from taxation by any act of the General Assembly. (Res. No. 24-1982, 6/29/82.)

Section DC5-13. Budget authorizes levy.

From the effective date of the budget, the amount stated therein as the amount to be raised by the property tax constitutes a determination of the amount of the tax levy in the corresponding tax year.

Section DC5-14. Notice of tax levy.

Immediately after the levy is made by the Commission in each year, the Town Manager shall give notice of the making of the levy by posting a notice thereof in some public place or places in the town. He shall make out and mail or deliver in person to each taxpayer or his agent at his last known address a bill or account of the taxes due from him. This bill or account shall contain a statement of the amount of real and personal property with which the taxpayer is assessed, the rate of taxation, the amount of taxes due and the date on which the taxes will bear interest. Failure to give or receive any notice required by this section shall not relieve any taxpayer of the responsibility to pay on the dates established by this Charter all taxes levied on his property.

Section DC5-15. When taxes are overdue.

The Taxes provided for in § DC5-13 of this Charter are due and payable on the first day of July in the year for which they are levied and are overdue and in arrears on the first day of the following October. They shall bear interest while in arrears at the maximum rate allowed by law for each month or fraction of a month until paid. All taxes not paid and in arrears after the first day of the following January shall be collected as provided in § DC5-16 of this Charter.

Section DC5-16. Sale of tax-delinquent property.

A list of all property on which the town taxes have not been paid and which are in arrears as provided by § DC5-15 of this Charter shall be turned over by the Town Manager to the Director of Finance for Wicomico County. All property listed thereon shall be sold for taxes, if necessary, by the Director of Finance in the manner prescribed by state law.

Section DC5-17. Fees.

All fees received by an officer or employee of the town government in his official capacity shall belong to the town government and be accounted for to the town.

Section DC5-18. Audit.

The financial books and accounts of the town shall be audited annually as required by Section 40 of Article 19 of the Annotated Code of Maryland (1981 Replacement Volume, as amended). The Commission shall engage a certified public accountant or a registered public accountant to make this examination. Any registered public accountant so engaged must be approved by the Legislative Auditor as provided in the aforesaid Section 40 of Article 19. The Town Manager shall, on or before the first day of December, send a copy of the auditor's report to the State Comptroller and the Director of the State Department of Fiscal Services. The complete audit shall be filed with the Commission, and copies shall be open to public inspection. (Res. No. 25-1982, 6/29/82.)

Section DC5-19. Borrowing power.

A. The Commission is authorized and empowered to borrow money on the faith and credit of the Town of Delmar for any proper public purpose and may issue bonds, notes or other evidences of indebtedness, in such denominations and payable at such times as the Commission may prescribe by ordinance.

B. The Commission is further authorized and empowered to provide for the issuance of municipal bonds payable as to principal and interest solely from the revenues of one (1) or more revenue-producing projects of the town, which bonds shall not constitute an indebtedness to which the town's faith and credit or taxing power are pledged.

C. All bonds shall be authorized by an ordinance which complies with Section 32 of Article 23A of the Annotated Code of Maryland (1957 Edition, or as hereafter amended).

D. The Commission is authorized, however, to determine in each instance whether the bonds shall be sold by the solicitation of competitive bids at public sale or by negotiation at private sale at a price not less than par. (See Article 31, Section 10 of the Annotated Code of Maryland.)

E. Nothing in this Charter shall be construed to limit the power of the Commission to issue such bonds as authorized by Article 43; Article 44A; Article 41, Section 266B; Article 25, Section 222; or any other provisions of the Annotated Code of Maryland (1957 Edition, as amended).

Section DC5-20. Tax anticipation borrowing.

During the first six (6) months of any fiscal year, the town may borrow in anticipation of the collection of the property tax levied for the fiscal year and may issue tax anticipation notes or other evidences of indebtedness as evidence of such borrowing. Such tax anticipation notes or other evidences of indebtedness shall be a first lien upon the proceeds of such tax and shall mature and be paid not later than eighteen (18) months after the date of issue. No tax anticipation notes or other evidences of indebtedness shall be issued which will cause the total tax anticipation indebtedness of the town to exceed fifty per centum (50%) of the property tax levy for the fiscal year in which the notes or other evidences of indebtedness are issued. All tax anticipation borrowing shall be authorized by ordinance. The Commission shall have the power to regulate all matters concerning the issuance and sale of tax anticipation notes.

Section DC5-20A. Emergency Borrowing.

The Commission may, by resolution, borrow on the faith and credit of the town of Delmar and for its use any sum or sums of money, in all not exceeding in the aggregate the sum of ten thousand dollars (\$10,000.00) and may issue notes for same in such sums and payable at such time as the Commission may prescribe; provided that the payment of such notes and the interest thereon must be paid by the Mayor and Commissioners of Delmar from the general taxes levied for the use of the town under the power conferred by this Charter, the levying or collecting

of any special tax for the payment of such notes being expressly prohibited. (Res. No. 26–1982, 6/29/82.)

Section DC5–21. Payment of indebtedness.

Except as provided in Section DC5–19B of this Charter, the power and obligation of the town to pay any and all bonds, notes or other evidences of indebtedness issued by it under the authority of this Charter shall be unlimited, and the town shall levy ad valorem taxes upon all the taxable property of the town for the payment of such bonds, notes or other evidences of indebtedness and interest thereon, without limitation of amount. The faith and credit of the town is hereby pledged for the payment of the principal [principal] of and the interest on all bonds, notes or other evidences of indebtedness issued under the authority of this Charter (except those bonds issued under Section DC5–19B), whether or not such pledge is stated in the bonds, notes or other evidences of indebtedness or in the ordinance authorizing their issuance.

Section DC5–22. Previous issued.

All bonds, notes or other evidences of indebtedness validly issued by the town previous to the effective date of this Charter and all ordinances passed concerning them are hereby declared to be valid, legal and binding and of full force and effect as if herein fully set forth.

Section DC5–23. Purchasing and contracts.

A. *Procedure.* All purchases and contracts for the town government shall be made by the Town Manager. The Commission may provide by ordinance for rules and regulations regarding the use of competitive bidding and contracts for all town purchases and contracts. All expenditures for supplies, materials, equipment, construction of public improvements or contractual service involving more than two thousand dollars (\$2,000.) shall be made on written contract. The Town Manager shall advertise for sealed bids, in such manner as may be prescribed by ordinance, for all such written contracts. All such bids shall be considered irrevocable once filed. The written contracts shall be awarded to the bidder who offers the lowest or best bid, quality of goods and work, time of delivery or completion and reliability of bidders being considered. All such written contracts shall be approved by the Commission before becoming effective. The Town Manager may reject all bids, with the approval of the Commission, and readvertise. The town at any time in its discretion may employ it [its] own forces for the construction or reconstruction of public improvements without advertising for (or readvertising for) or receiving bids. All written contracts may be protected by such bonds, penalties and conditions as the town may require. Nothing in this section shall be applicable to the engagement of an independent auditor or the awarding of contracts for professional services.

B. *Bond requirement.* When any contract exceeding twenty–five thousand dollars (\$25,000.) in amount is awarded for construction, alteration or repair of any public work or improvement of the town, the contractor shall comply with the bond requirements of Article 21, Section 3–501 of the Annotated Code of Maryland.

C. *Appropriation required.* No officer or agent of the town shall make any contract binding or purporting to bind the town to pay any sum of money not previously appropriated for the purpose for which the contract is made, and the town shall not be liable on such contracts.

D. *Personal interest.* No officer or agent of the town shall in a private capacity enter into or make any contract for doing work or furnishing supplies or materials for the town nor shall any officer or agent of the town participate in the profits of any contract between the town and any other person, firm, or corporation. (This subsection shall not apply to any stockholder of a corporation who is not an officer of the corporation.)

E. Upon request of the Town Manager, stating fully the reasons why competitive bidding on any single purchase or contract is impractical or unreasonable, considering among other factors the costs of operation, maintenance, down time and service, then upon the affirmative vote of four (4) members, the Commission may direct the Town Manager to make such purchase or contract without compliance with the provisions of subsection A. (Res. No. 27-1982, 6/29/82.)

ARTICLE VI

Special Assessments

Section DC6-1. Power of town to levy special assessments.

The town may levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon the property by the installation or construction of water mains, sanitary sewer mains, stormwater sewers, curbs, gutters, public parking facilities, pedestrian malls and streetlighting and by the construction and paving of public ways and sidewalks or parts thereof, and it may provide for the payment of all or any part of the above projects out of the proceeds of the special assessment. The cost of any project to be paid in whole or in part by special assessments may include the direct cost thereof, the cost of any land acquired for the project, the interest on bonds, notes or other evidences of indebtedness issued in anticipation of the collection of special assessments, a reasonable charge for the services of the administrative staff of the town and any other item of cost which may reasonably be attributed to the project.

Section DC6-2. Procedure for special assessments.

A. *Assessment of cost.* The cost of the project being specially charged for shall be assessed according to the front rule of apportionment or some other equitable basis determined by the Commission.

B. *Uniformity of rates.* When desirable, the affected property may be divided into different classes to be charged different rates, but, except for this, any rate shall be uniform.

C. *Levy of charges; public hearing; notice.* All special assessment charges shall be levied by the Commission by ordinance. Before levying any special assessment charges, the

Commission shall hold a public hearing. The Town Manager shall cause notice to be given stating the nature and extent of the proposed project, the kind of materials to be used, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the Commission and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation in the town. The Town Manager shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten (10) and not more than thirty (30) days after the Town Manager shall have completed publication and service of notice as provided in this subsection. Following the hearing, the Commission, in its discretion, may vote to proceed with the project and may levy the special assessment.

D. *Right to appeal.* Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this section shall have the right to appeal to the Circuit Court for Wicomico County within thirty (30) days after the levying of any assessment by the Commission.

E. *Payments; interest.* Special assessments may be made payable in annual or more frequent installments over such period of time, not to exceed ten (10) years, or in the case of water mains, sanitary sewer mains and stormwater sewers, not to exceed forty (40) years, and in such manner as the Commission may determine. The Commission shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the Commission.

F. *When due; lien on property; collection.* All special assessment installments are overdue six (6) months after the date on which they became due and payable. All special assessments shall be liens on the property and all overdue special assessments shall be collected in the same manner as town taxes or by suit at law.

G. *Town Manager.* All special assessments shall be billed and collected by the Town Manager. (Res. No. 28–1982, 6/29/82.)

ARTICLE VII

Personnel

Section DC7–1. Town Manager.

The Town Manager shall serve as Clerk to the Board of Commissioners. He shall attend every meeting of the Commission and keep a full and accurate account of the proceedings of the

Commission. He shall keep such other records and perform such other duties as may be required by this Charter or the Commission, including the duties prescribed by § DC5–1 hereof.

Section DC7–2. Town Attorney.

The Mayor, with the approval of the Commission, may appoint a Town Attorney, who shall serve for a period of two (2) years. The Town Attorney shall be a member of the Bar of the Maryland Court of Appeals. The Town Attorney is the legal adviser of the town and shall perform such duties in this connection as may be required by the Commission. His compensation shall be determined by the Commission. The town has the power to employ such legal consultants as it deems necessary from time to time. (Res. No. 29–1982, 6/29/82.)

Section DC7–3. Authority to employ personnel.

The town may employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or other state law and to operate the town government, and this authority may be exercised through and delegated to the Town Manager to the extent permitted by law.

Section DC7–4. Merit system authorized.

The town may provide by ordinance for appointments and promotions in the administrative service on the basis of merit and fitness. To carry out this purpose, the Commission may adopt such rules and regulations governing the operation of a merit system as it deems desirable or necessary. Among other things, these rules and regulations may provide for competitive examinations, the use of eligible lists, a classification plan, a compensation plan, a probation period, appeals by employees included within the classified service from dismissal or other disciplinary action and vacation and sick leave regulations. The town may request and avail itself of the facilities of the Commissioner of State Personnel for the administration of its merit system, as provided in state law.

Section DC7–5. Unclassified and classified service.

A. *Civil service divided into unclassified and classified service.* The civil service of the town shall be divided into the unclassified and classified service.

B. *Unclassified service.* The unclassified service shall comprise the following offices and positions, which shall not be included within the merit system:

(1) The Mayor, Commissioners and persons appointed to fill vacancies in these positions.

(2) The Town Manager and the Town Attorney.

(3) The heads of all offices, departments and agencies and members of town boards and commissions.

- (4) Part-time, temporary and unpaid offices and positions.

C. *Classified service.* The classified service shall comprise all positions not specifically included by this section in the unclassified service. All offices and positions included in the classified service shall be subject to any merit system rules and regulations which may be adopted. (Res. No. 30–1982, 6/29/82.)

Section DC7–6. Prohibitions and penalties.

A. *Prohibitions.* If a merit system is adopted, no person in the classified service of the town or seeking admission thereto shall be appointed, promoted, demoted, removed or in any way favored or discriminated against because of his political or religious opinions or affiliations or any other factors not related to ability to perform the work; no person shall willfully or corruptly commit or attempt to commit any fraud preventing the impartial execution of the personnel provisions of this Charter or of the rules and regulations made thereunder; no officer or employee in the classified service of the town shall continue in such position after election to any public office; no person seeking appointment to or promotion in the classified service of the town shall, either directly or indirectly, give, render or pay any money, service or other valuable thing to any person for or on account of or in connection with his appointment, proposed appointment, promotion or proposed promotion; no person shall orally, by letter or otherwise, solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political party or political purpose whatever from any person holding a position in the classified service of the town; no person holding a position in the classified service of the town shall make any contribution to the campaign funds of any political party or any candidate for public office or take any part in the management, affairs or political campaign of any political party or candidate for public office, further than in the exercise of his right as a citizen to express his opinion and to cast his vote.

B. *Penalties.* Any person who by himself or with others willfully or corruptly violates any of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.) or by imprisonment for a term not exceeding thirty (30) days, or by both such fine and imprisonment. Any person who is convicted under this section for a period of five (5) years is ineligible for appointment to or employment in a position in the town service and, if he be an officer or employee of the town, shall immediately forfeit the office or position he holds. (Res. No. 31–1982, 6/29/82.)

Section DC7–7. Retirement system.

The town may do all things necessary to include its officers and employees, or any of them, within any retirement system or pension system under the terms of which they are admissible and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the town.

Section DC7-8. Compensation of employees.

The scale or range of compensation of all officers and classification employees of the town shall be set from time to time by an ordinance passed by the Mayor and Commission, subject to the restrictions imposed upon establishing the salaries of the Mayor and Commissioners, and the Town Manager shall be authorized to pay salaries within said scale or range without further action of the Commission. (Res. No. 32-1982, 6/29/82.)

Section DC7-9. Employee benefit programs.

The town by ordinance may provide for or participate in hospitalization or other forms of benefit or welfare programs for its officers and employees and may expend public moneys of the town for such programs.

ARTICLE VIII

Public Ways and Sidewalks

Section DC8-1. Definition of public ways.

The term “public ways” as used in this Charter includes all streets, avenues, roads, highways, public thoroughfares, lanes and alleys.

Section DC8-2. Control of public ways.

The Town has control of all public ways in the town except such as may be under the jurisdiction of the Maryland State Roads Commission. Subject to the laws of the State of Maryland and this Charter, the town may do whatever it deems necessary to establish, operate and maintain in good condition the public ways of the town.

Section DC8-3. Powers of town as to public ways.

The powers of the town as to public ways shall include, but not be limited to, the following specific powers. The town may:

- A. Establish, regulate and change from time to time the grade lines, width and construction materials of any town public way or part thereof, bridges, curbs and gutters.
- B. Grade, lay out, construct, open, extend and make new town public ways.
- C. Grade, straighten, widen, alter, improve or close up any existing town public way or part thereof.
- D. Pave, surface, repave or resurface any town public way or part thereof.

E. Install, construct, reconstruct, repair and maintain curbs and/or gutters along any town public way or part thereof.

F. Construct, reconstruct, maintain and repair bridges.

G. Name town public ways.

H. Have surveys, plans, specifications and estimates made for any of the above activities or projects or parts thereof.

Section DC8–4. Powers of town as to sidewalks.

The powers of the town as to sidewalks shall include, but not be limited to, the following specific powers. The town may:

A. Establish, regulate and change from time to time the grade lines, width and construction materials of any sidewalk or part thereof on town property along any public way or part thereof.

B. Grade, lay out, construct, reconstruct, pave, repave, repair, extend or otherwise alter sidewalks on town property along any public way or part thereof.

C. Require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow and other obstructions.

D. Require and order the owner of any property abutting on any public way in the town, or benefiting therefrom, to perform any projects authorized by this section at the owner's expense according to reasonable plans and specifications. If, after due notice, the owner fails to comply with the order within a reasonable time, the town may do the work, and the expense shall be a lien on the property and shall be collectible in the same manner as are town taxes or by suit at law.

ARTICLE IX

Water and Sewers

Section DC9–1. Powers of town.

The town may:

A. Construct, operate and maintain a water system and water plant.

B. Construct, operate and maintain a sanitary sewerage system and a sewage treatment plant.

C. Construct, operate and maintain a stormwater drainage system and stormwater sewers.

D. Construct, maintain, reconstruct, enlarge, alter, repair, improve or dispose of all parts, installations and structures of the above plants and systems.

E. Have surveys, plans, specifications and estimates made for any of the above plants and systems or parts thereof or the extension thereof.

F. Enter into agreements with the town of Delmar, Delaware, for the joint control and operation of water and sewer systems.

G. Do all things it deems necessary for the efficient operation and maintenance of the above plants and systems.

Section DC9-2. Placing structures in public ways.

Before beginning any construction of or placing of or changing the location of any main, conduit, pipe or other structure in the public ways of the town, the given public service corporation, company or individual shall submit plans to the town and obtain written approval upon such conditions and subject to such limitations as may be imposed by the town. Any public service corporation, company or individual violating the provisions of this section is guilty of a misdemeanor [misdemeanor]. If any unauthorized main, conduit, pipe or other structure interferes with the operation of the water, sewage or stormwater systems, the town may order it removed.

Section DC9-3. Obstructions.

All individuals, firms or corporations having mains, pipes, conduits or other structures in, on or over any public way in the town or in the county which impede the establishment, construction or operation of any town sewer or water main shall, upon reasonable notice, remove or adjust the obstructions at their own expense to the satisfaction of the town. If necessary to carry out the provisions of this section, the town may use its condemnation powers provided in § DC10-2. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor.

Section DC9-4. Entering on county public ways.

The town may enter upon or do construction in, on or over any county public way for the purpose of installing or repairing any equipment or doing any other things necessary to establish, operate and maintain the water system, water plant, sanitary sewerage system, sewage treatment plant or stormwater sewers provided for in this Charter. Unless required by the county, the town need not obtain any permit or pay any charge for these operations, but it must notify the county of its intent to enter on the public way and must leave the public way in a condition not inferior to that existing before.

Section DC9-5. Connections.

The town shall provide a connection with water and sanitary sewer mains for all property abutting on any public way in which a sanitary sewer or water main is laid. When any water main or sanitary sewer is declared ready for operation by the town, all abutting property owners, after reasonable notice, shall connect all fixtures with the water or sewer main. The town may require that, if it considers existing fixtures unsatisfactory, satisfactory ones be installed and may require that all cesspools, sink drains and privies be abandoned, filled, removed or left in such a way as not to injure public health. All wells found to be polluted or a menace to health may be ordered to be abandoned and closed. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor.

Section DC9-6. Same: charge.

The town may make a charge, the amount to be determined by the Commission, for each connection made to the town's water or sewer mains. This charge shall be uniform throughout the town but may be changed from year to year. Arrangements for the payment of this charge shall be made before the connection is made.

Section DC9-7. Changes in plumbing, etc., to prevent waste or improper use.

In order to prevent any leakage or waste of water or other improper use of the town's water system or sewage disposal system, the town may require such changes in plumbing, fixtures or connections as it deems necessary to prevent such waste or improper use.

Section DC9-8. Private systems.

The town may provide by ordinance that no private water supply, sewerage or stormwater drainage system and no water mains, sewers, drains or connections therewith shall be constructed or operated by any person or persons, firm, corporation, institution or community, whether upon private premises or otherwise, and may provide that cesspools or other private methods of sewage disposal shall be operated and maintained in such a manner that they do not and will not be likely to affect adversely the public comfort and health; and any cesspool or other private method of sewage disposal affecting or likely to affect adversely the public comfort and health may be deemed a nuisance and may be abated by the town. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor.

Section DC9-9. Extensions beyond boundaries.

The town may extend its water or sewerage systems beyond the town limits.

Section DC9-10. Right of entry.

Any employee or agent of the town, while in the necessary pursuit of his official duties with regard to the water or sewage disposal systems operated by the town, has a right of entry, for access to water or sewer installations, at all reasonable hours and after reasonable advance

notice to the owner, tenant or person in possession, upon any premises and into any building in the town or in the county served by the town's water or sewage disposal system. Any restraint or hindrance offered to the entry by any owner, tenant or person in possession, or the agent of any of them, by ordinance, may be made a misdemeanor.

Section DC9-11. Pollution of water supply.

No person shall do anything which will discolor, pollute or tend to pollute any water used or to be used in the town water supply system. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment not to exceed ninety (90) days or a fine not to exceed five hundred dollars (\$500), or both. (Res. No. 33-1982, 6/29/82.)

Section DC9-12. Contracts for service.

The town, if it deems it advisable, may contract with any party or parties, inside or outside the town, to obtain water or to provide for the removal of sewage.

Section DC9-13. Charges.

The town may charge and collect such service rates, water rents, ready-to-serve charges or other charges as it deems necessary for water supplied and for the removal of sewage. These charges are to be billed and collected by the Town Manager, and if bills are unpaid within thirty (30) days, the service may be discontinued. All charges shall be a lien on the property, collectible in the same manner as town taxes or by suit at law.

ARTICLE X

Town Property

Section DC10-1. Acquisition, possession and disposal.

For any public purposes, the town may acquire by purchase, gift, bequest, devise, lease, condemnation or otherwise any real, personal or mixed property within or without the corporate limits of the town. The town may sell, lease or otherwise dispose of any property belonging to the town. All municipal property, funds and franchises of every kind belonging to or in the possession of the town at the time this Charter becomes effective are vested in the town, subject to the terms and conditions thereof.

Section DC10-2. Condemnation.

The town may condemn property of any kind or interest therein or franchise connected therewith, in fee or as an easement, within the corporate limits of the town, for any public purpose. Any activity, project or improvement authorized by the provisions of this Charter or any other state law applicable to the town is a public purpose. The procedure in case of any condemnation proceeding shall be that established by the State of Maryland [currently Title 12 of the Real Property Article of the Annotated Code of Maryland (1974 Edition)].

Section DC10–3. Protection of town property.

The town may do whatever may be necessary to protect town property and to keep all town property in good condition.

ARTICLE XI

Annexation

Section DC11–1. Annexation.

The Board of Commissioners may enlarge the corporate boundaries of the town in accordance with the applicable law of the State of Maryland, as it may be amended from time to time, and the same is hereby incorporated by reference as though fully set out herein.

ARTICLE XII

General Provisions

Section DC12–1. Oath of office.

A. *Oath required.* Before entering upon the duties of their offices, the Mayor, the Commissioners, the Town Manager, the members of the Board of Supervisors of Elections and all other persons elected or appointed to any office of profit or trust in the town government shall take and subscribe to the following oath or affirmation: “I,, do swear (or affirm, as the case may be) that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland and support the Constitution and laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of, according to the Constitution and laws of this state.”

B. *Before whom taken and subscribed.* The Mayor shall take and subscribe to this oath or affirmation before the Clerk of the Circuit Court for Wicomico County or before one of the sworn deputies of the Clerk. All other persons taking and subscribing to the oath shall do so before the Mayor. (Res. No. 34–1982, 6/29/82.)

Section DC12–2. Official bonds.

The Town Manager and such other officers or employees of the town as the Commission or this Charter may require shall give bond in such amount and with such surety as may be required by the Commission. The premiums on such bonds shall be paid by the town.

Section DC12–3. Prior rights and obligations.

All right, title and interest held by the town or any other person or corporation at the time this Charter is adopted, in and to any lien acquired under any prior Charter of the town, is hereby preserved for the holder in all respects as if this Charter had not been adopted, together with all rights and remedies in relation thereto. This Charter shall not discharge, impair or release any contract, obligation, duty, liability or penalty whatever existing at the time this Charter becomes effective. All suits and actions, both civil and criminal, pending, or which may hereafter be instituted for causes of action now existing or offenses already committed against any law or ordinance repealed by this Charter, shall be instituted, proceeded with and prosecuted to final determination and judgment as if this Charter had not become effective.

Section DC12–4. Effect of Charter on existing ordinances.

A. *Ordinances, etc., not in conflict with Charter remain in effect.* All ordinances, resolutions, rules and regulations in effect in the town at the time this Charter becomes effective which are not in conflict with the provisions of this Charter shall remain in effect until changed or repealed according to the provisions of this Charter.

B. *Ordinances, etc., in conflict with Charter repealed.* All ordinances, resolutions, rules and regulations in effect in the town at the time this Charter becomes effective which are in conflict with the provisions of this Charter are repealed to the extent of such conflict.

Section DC12–5. Severability.

If any section or part of section of this Charter is held invalid by a court of competent jurisdiction, this holding shall not affect the remainder of this Charter or the context in which such section or part of section so held invalid appears, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

ARTICLE XIII

Charter Amendments

Section DC13–1. How amendments may be initiated.

An amendment of a Municipal Charter may be initiated by the Commission or by a petition of qualified voters of the town.

Section DC13–2. Initiation by legislative body.

A. *Initiation of amendment by resolution.* The Board of Commissioners may initiate a proposed amendment or amendments to the Municipal Charter by a resolution which, except as otherwise specified in this Charter, is ordained or passed as in the usual course of considering

resolutions in the government of the municipal corporation by a majority of all the persons elected to the Board of Commissioners.

B. *Contents of resolution.* In conformity with a requirement imposed upon the General Assembly by Article 3, Section 29, of the Constitution of Maryland, the resolution shall contain the complete and exact wording of the proposed amendment or amendments, prepared so that the section or sections are set forth as they would read when amended or enacted. No Charter and no section of a Charter may be revised or amended by reference to its title or section only.

C. *Amendment to embrace only one (1) subject.* In conformity with a requirement imposed upon the General Assembly by Article 3, Section 29, of the Constitution of Maryland, every Charter amendment adopted by the municipal corporation shall embrace but one (1) subject, and that shall be described in its title.

D. *Posting resolution.* The Town Manager shall give notice by posting and publication of any resolution which proposes an amendment or amendments to the Municipal Charter. A complete and exact copy of the resolution containing the proposed amendment or amendments shall be posted at the town office or other public place for a period of at least forty (40) days following its adoption.

E. *Publication of summary.* A fair summary of the proposed amendment or amendments shall be published in a newspaper of general circulation in the municipal corporation not less than four (4) times, at weekly intervals within a period of at least forty (40) days after the adoption of the resolution containing the proposed amendment or amendments.

F. *Effective date of amendment.* The amendment or amendments so proposed by the Commission shall become and be considered a part of the Municipal Charter, according to the terms of the amendment or amendments, in all respects to be effective and observed as such, upon the 50th day after being so ordained or passed, unless on or before the 40th days [day] after being so ordained or passed there shall be presented to the Commission, or mailed to it by registered mail, a petition meeting the requirements of this section.

G. *Petition for referendum.* The petition shall be signed by twenty per centum (20%) or more of the persons who are registered to vote in municipal general elections and shall request that the proposed amendment or amendments be submitted on referendum to the voters of the town. Each person signing the petition shall indicate thereon both his name and residence address. Upon receiving the petition for a referendum, the Commission shall verify that any person who signed it is qualified to vote in the town's general elections and shall consider the petition as of no effect if it is signed by fewer than twenty per centum (20%) of the persons who are qualified to vote in municipal general elections.

H. *Referendum election.* If the petition for a referendum complies with the requirements of this section, the Commission shall by resolution, passed as in its normal legislative procedure, specify the day and the hours for the election at which the question shall be submitted to the voters of the town. This may be at either the next regular municipal general election or at a special election, in the discretion of the Commission. In the event a special election is

designated, it shall be held within a period of not less than forty (40) days nor more than sixty (60) days after the final passage of the resolution providing for the referendum. The resolution providing for the referendum shall specify the exact wording which is to be placed on the ballots or voting machines when the question is submitted to the voters of the town.

Section DC13-3. Initiation by petition.

A. *Petition; resolution of legislative body setting time for referendum.* Twenty per centum (20%) or more of the persons who are qualified to vote in municipal general elections may initiate a proposed amendment or amendments to the Municipal Charter, by a petition presented to the Commission. The petition shall contain the complete and exact working [wording] of the proposed amendment or amendments, and the proposed amendment or amendments shall be prepared in conformity with the several requirements contained in § DC13-2B and C of this Charter. Each person signing it shall indicate thereon both his name and residence address. Upon receiving the petition, the Commission is directed to verify that any person who signed it is qualified to vote in municipal general elections and shall consider the petition as of no effect if it is signed by fewer than twenty per centum (20%) of the persons who are qualified to vote in municipal general elections. If the petition complies with the requirements of this section, the Commission shall by resolution, passed as in its normal legislative procedure, and not later than sixty (60) days after the petition shall have been presented to it, specify the day and the hours for the election at which the question shall be submitted to the voters of the town. This may be at either the next regular municipal general election or at a special election, in the discretion of the legislative body. In the event a special election is designated, it shall be within a period of not less than forty (40) days nor more than sixty (60) days after the final passage of the resolution. In the resolution, the exact wording shall be specified which is to be placed on the ballots or voting machines when the question is submitted to the voters of the town.

B. *Adoption of amendment by resolution.* Provided, however, that if the Commission shall approve of the amendment or amendments provided for in the petition presented to it under Subsection A above, it shall have the right by resolution to adopt the amendment or amendments thereby proposed and to proceed thereafter in the same manner as if the amendment or amendments had been initiated by such legislative body and in compliance with the provisions of § DC13-2 of this Charter.

Section DC13-4. Posting and publication.

The Town Manager shall give notice by posting and publication of any submission of a proposed Charter amendment to the voters thereof. For not less than the four (4) weeks immediately preceding the election at which the question is to be submitted, a complete and exact copy of the wording of the proposed amendment or amendments shall be posted at the town office or other main municipal building or in a public place. On the day of the election, a similar copy shall be posted at the place or places for voting. Notice of the election, together with a fair summary of the proposed amendment or amendments, shall be published in a newspaper of

general circulation in the town, not less than once in each of the four (4) weeks immediately preceding the election.

Section DC13–5. Referendum.

A. *Conduct of election; ballots; expenses.* On the day and during the hours specified for any referendum, the proposed Charter amendment or amendments shall be submitted to the qualified voters of the town. The Board of Supervisors of Elections shall arrange for and conduct the referendum election on the proposed Charter amendment or amendments. The wording specified by the Commission in the resolution providing for a referendum on the Charter amendment or amendments shall be placed on the ballots or voting machines used at the referendum election. The expenses of the referendum election shall be defrayed by the town.

B. *Officials to tally and certify result.* Promptly following the closing of the polls, the Board of Supervisors of Elections shall tally the results and shall forthwith certify the results of the referendum to the Mayor.

C. *Proclamation of result; effective date of amendment.* If a majority of those who vote on any question so submitted to the voters of the town shall cast their votes in favor of the proposed Charter amendment or amendments, the Mayor of the Commission shall so proclaim publicly within ten (10) days after receiving a certification of the votes from the Board of Supervisors of Elections; and on the 30th day following the public proclamation the proposed Charter amendment or amendments shall become a part of the Charter of the municipal corporation, according to its terms, in all respects to be effective and observed as such. If less than a majority of those who vote on any such question shall cast their votes in favor of the proposed Charter amendment or amendments, the Mayor of the Commission likewise shall so proclaim, adding to his proclamation the statement that the proposed Charter amendment or amendments contained in said question are null and void and of no effect whatsoever.

Section DC13–6. Form and registration of amendments.

A. *Form.* In any proposal to amend an existing Charter of a municipal corporation, the new matter, if any, to be added to the Charter shall be indicated by being underscored or in italics or typed or printed completely in capital letters, and all matter to be eliminated from the existing Charter, if any, shall be indicated in its proper place by enclosing such matter in double parentheses or in boldfaced brackets. Where the subject matter consists of an entirely new section or sections, the words of such new section or sections shall also be underscored or in italics or typed or printed completely in capital letters or contain some marginal or other notation to that effect. When the purpose of any proposal is to repeal in entirety any section or sections of the existing Charter, the matter intended to be repealed need not be written out in full and enclosed in either double parentheses or boldfaced brackets.

B. *Citation of original section.* The resolution to amend a Charter shall identify the source of the existing section or sections, citing the code or other publication or amendment in which appears the most recent text of the section or sections to be amended.

C. *Consecutive numbering.* Amendments to the Charter of any municipal corporation shall be in a consecutively numbered series.

D. *Repeal of other sections.* The resolution to amend a Charter shall provide specifically (and not simply by implication) for the repeal of any section or sections of the existing Charter which are inconsistent with the amended section or sections.

E. *Rescission.* A proposal to amend a Charter, whether initiated by the Commission or by a petition of qualified voters, may not be rescinded after its adoption by the Commission or after its formal submission in a petition, in any manner other than that of another Charter amendment.

F. *Registration.* At the time a Charter amendment or amendments become effective by reason of having been ordained or passed by the Commission, or at the time of making public proclamation as to the vote on any question containing a proposed Charter amendment or amendments which have been adopted, the Town Manager shall send separately by registered mail to the Secretary of State of Maryland and to the Department of Legislative Reference [Services] the following information concerning the Charter amendment or amendments:

- (1) The complete text thereof.
- (2) The date of the referendum election, if any.
- (3) The number of votes cast for and against each question containing the Charter amendment or amendments, whether in the Commission or in a referendum.
- (4) The effective date of the Charter amendment or amendments.

G. *Not effective until registered.* The Charter amendment or amendments are not effective and shall not be applied or considered as if effective, unless and until it or they have been registered as required in Subsection F of this section of this Charter.

Section DC13-7. Compilation of measures enacting, amending or repealing Charter provisions.

A. *Generally.* At the end of each calendar year, the Town Manager shall prepare a convenient and legible compilation of the measures dealt with during that year which enact, amend or repeal sections in the Municipal Charter. The measures in the compilation shall be in a numerical sequence, beginning with No. 1 and in a separate series for each year.

B. *Distribution of copies.* Copies of this compilation shall be made available for inspection at the town office during normal business hours, and copies shall be kept on permanent record in the same office. Copies also shall be furnished, without charge, to the Hall of Records Commission and to the state library. Not later than March 1 of the next succeeding year, the Town Manager shall furnish, without charge, five (5) copies of the compilation to the State Department of Legislative Reference [Services].

C. *Statement as to referendum.* In addition to furnishing copies of the compilation to the State Department of Legislative Reference [Services], the Town Manager shall provide to the Department a statement concerning any referendum on any proposed Charter amendment. The statement shall include information on the results of any referendum held during the year, and it shall include information as to any referendum pending, actually or potentially, but not yet held, at the end of the year.

Section DC13–8. Codification of amendments.

The exact text of any amendment or amendments to the Charter, adopted as in this Article specified, shall thereafter be included in any subsequent edition or codification of the Charter, until altered, modified or repealed by a subsequent amendment or amendments to the Charter.

Section DC13–9. Administrative corrections.

The Commissioners of Delmar shall have the power to make administrative or clerical changes in its Charter, ordinances, resolutions and all other town documents as to form only, in no way changing the substance thereof, to correct typographical, clerical or other errors in form only, without the necessity of the formal procedures normally required for Charter amendments, the enactment of ordinances or resolutions or the passage or ratification of other documents, and said changes may be made by motion properly made and passed at a duly called meeting of the Commissioners, the adoption of said motion to be duly recorded in the minutes of said meeting.

NOTES

(1) Resolution 1997-1, effective May 29, 1997, provided for the annexation of 1.92 acres of land, more or less. Resolution 1999-6, effective March 30, 2000, provided for the annexation of 12.585 acres of land, more or less. Resolution 2000-1, effective February 24, 2000, provided for the annexation of 55.96 acres of land, more or less. Resolution 2000-11-1, effective April 26, 2001, provided for the annexation of 25.429 acres of land, more or less. Resolution 2000-12-1, effective April 26, 2001, provided for the annexation of 76.085 acres of land, more or less. Resolution 2001-12-1, effective March 28, 2002, provided for the annexation of 42.157 acres of land, more or less. Resolution 2002-1-1, effective April 25, 2002, provided for the annexation of 8.68 acres of land, more or less. Resolution 2003-12-1, effective April 22, 2004, provided for the annexation of 4.33 acres of land, more or less. Resolution 2004-1-1, effective April 22, 2004, provided for the annexation of 30.327 acres of land, more or less. Resolution 2004-6-1, effective 12-23-04, provided for the annexation of 8.6 acres of land, more or less. Resolution 2004-12-1, effective May 12, 2005, provided for the annexation of 5.526 acres of land, more or less. Resolution 2005-2-1, effective April 28, 2005, provided for the annexation of 35,544.858 square feet of land, more or less. Resolution 2006-8-1, effective November 27, 2006, provided for the annexation of 26,797.37 square feet of land, more or less. Resolution 2006-11-1, effective March 15, 2007, provided for the annexation of 28,465 square feet of land, more or less. Resolution 2007-7-1, effective October 11, 2007, provided for the annexation of 9.31 acres of land, more or less. Resolution 2007-12-1, effective March 13, 2008, provided for the annexation of 0.45 acres of land, more or less. These Resolutions, however, failed to provide for the change in the boundary description that is contained in this charter. Accordingly, these annexations are simply noted pursuant to the municipal general powers section.